

SECRET

Security Information

18-1321

Subject
632

OGC HAS REVIEWED.

Chief, Planning and Field Audit Branch

17 March 1952

Office of General Counsel

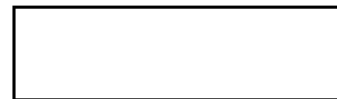
F.I.C.A. Tax

1. Reference is made to your memorandum of 29 February 1952, wherein you state that it had been suggested that the Bureau of Internal Revenue may regard each cost contract of a contractor as a separate employer, in which case the refund provisions of F.I.C.A. would require that the individual directly petition the Bureau of Internal Revenue. As you have indicated in your memorandum, this would present a problem to you in cost reimbursement inasmuch as the possibility would exist of the excess tax being passed on to the United States Government.

2. I have discussed this matter with the Bureau of Internal Revenue and have been informed that F.I.C.A. is not concerned with types or numbers of contracts but merely with the basic employer-employee relationship. If the relationship exists the obligation of the employer with respect to withholding terminates at the cut-off point, namely \$3600. Hence, where a Government auditor finds that an employee has been on the payroll and his services have been utilized over various contracts, a check is made to determine if the appropriate F.I.C.A. tax has been withheld. I am further informed that in those instances where excess F.I.C.A. taxes have been withheld, the employee may apply the excess as a credit against his income tax withholding.

3. Since the answer to the basic question is consistent with your opinion contained in the third paragraph, it renders unnecessary any response to the question presented in your fourth paragraph.

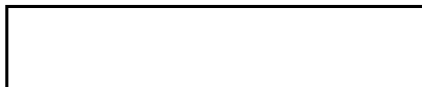
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Attachment - Memo to



dtd 18 Feb 52

Distribution -

Orig - Add
4 - OGC

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